

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HAROLD LEE TILLMAN,

CIVIL ACTION NO. 04-40092

Petitioner,

v.

HONORABLE PAUL V. GADOLA
U.S. DISTRICT JUDGE

MILlicent WARREN,

Respondent.

/

ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY

This Court denied Petitioner's motion pursuant to 28 U.S.C. § 2254 in an order filed on May 3, 2005. Before the Court is Petitioner's motion for a certificate of appealability ("COA"), which was accepted for filing on May 16, 2005. Petitioner seeks a COA with regarding the Court's determination that he failed to comply with the statute of limitations.

A COA may be issued "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The substantial showing threshold is satisfied when a petitioner demonstrates "'that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" Slack v. McDaniel, 529 U.S. 473, 484 (2000) (quoting

Barefoot v. Estelle, 463 U.S. 880 at 893, n.4 (1983)). "When a habeas applicant seeks permission to initiate appellate review of the dismissal of his petition," a federal court "should limit its examination to a threshold inquiry into the underlying merit of his claims." Miller-El v. Cockrell, 537 U.S. 322, 327 (2003).

This Court has conducted a threshold inquiry into the underlying merits of Petitioner's claims. The Court determines that Petitioner has not made a substantial showing of the denial of a constitutional right in his claims, as required by 28 U.S.C. § 2253(c)(2). This Court finds that jurists of reason would not debate the conclusions in this Court's order of May 3, 2005. Therefore, Petitioner has failed to show that he is entitled to a COA.

ACCORDINGLY, IT IS HEREBY ORDERED that Petitioner's motion for a certificate of appealability, accepted for filing on May 16, 2005, is **DENIED**.

SO ORDERED.

Dated: May 18, 2005

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on May 18, 2005, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Debra M. Gagliardi, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Harold Tillman.

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager

(810) 341-7845